



30 Bank Street
PO Box 350
New Britain, CT 06050-0350
06051 for 30 Bank Street
(860)223-4400
fax (860)223-4488

Testimony of John L. Bonee III
Member, Connecticut Bar Association Board of Governors and House of Delegates
House Bill 6616, An Act Concerning the Evidentiary Standard for Punitive Damage Awards
Judiciary Committee
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Senator Coleman, Representative Fox, and members of the Judiciary Committee thank you for the opportunity to appear and comment on **House Bill 6616, An Act Concerning the Evidentiary Standard for Punitive Damage Awards**. My name is John L. Bonee and I serve on the Connecticut Bar Association's House of Delegates and Board of Governors. I am also a principal of BoneeWeintraub LLC, a law firm with an office in West Hartford. The CBA opposes House Bill 6616, which if enacted, would make it much more difficult to penalize parties who harm others in a reckless, willful or intentional manner by requiring that a plaintiff prove such egregious conduct occurred by clear and convincing evidence.

The bill will likely lead to unintended consequences; it appears to be an effort to effectuate tort reform but does the opposite by denying rights to victims going back hundreds of years and by not recognizing the effect of changes in the burden of proof on the process of litigation. Victims of drunk drivers for example will be presented with a potentially insurmountable obstacle to get justice by way of punitive compensation from a terrible wrongdoer.

The standard for clear and convincing evidence has historically been reserved for fraud, civil contempt and injunctive relief in equity i.e. a special hybrid of proof between preponderance of the evidence (tipping of scales) in civil and beyond a shadow of doubt in criminal cases. The hybrid standard has been reserved for judge decisions. Most punitive damage award decisions are in the province of the jury as trier of fact in civil cases. The end result of the change by House Bill 6616 would be to remove from victims the right to get a just result for egregious activity from a jury of their peers i.e. they will lose their right to a jury trial.

Civil suits in litigation will be made far more complicated with different levels of proof required for different counts in a single complaint potentially making the cost to injured plaintiffs too expensive to pursue and thereby denying them their remedy to which they are entitled in court. To prove punitive damages already requires proof of wanton and willful disregard for the proscribed activity, elements that are already extremely difficult to prove.

Finally, because punitive damages in Connecticut are limited to attorney's fees, Connecticut is considered one of the lowest punitive damage exposure jurisdictions in the country. Here in Connecticut, we have not seen any significant problem with excessive punitive damage awards. These awards are reserved - as they should be - to the most egregious cases of willful and wanton conduct.

For all the foregoing reasons, the CBA opposes House Bill 6616 and asks the committee to not favorably report the bill

I would be happy to answer any questions you may have.